

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

RUTH HEINE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil Action Docket No: 05-11117 REK
PARKWAY AUTO REALISATIONS, LLC,	)	
f/k/a AUTO EUROPE, LLC, d/b/a	)	
AUTO EUROPE,	)	
	)	
Defendants.	)	

**DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT  
AND JURY CLAIM**

Defendant Auto Europe LLC, d/b/a Auto Europe (erroneously sued as Parkway Auto Realisations f/k/a Auto Europe LLC, d/b/a Auto Europe) (“Defendant”) responds to Plaintiff’s Complaint and Jury Claim (the “Complaint”) as follows:

**FIRST DEFENSE**

1. Defendant admits that this purports to be “a civil rights action based on unlawful age discrimination by an employer against its employee” but denies that any discrimination occurred.
2. Defendant denies the material allegations contained in paragraph 2 of the Complaint.
3. Defendant denies the material allegations contained in paragraph 3 of the Complaint.
4. The statements contained in paragraph 4 of the Complaint are not averments of fact but conclusions of law to which no response is required.
5. Defendant admits that Plaintiff’s state and federal claims arise from the same set of alleged facts but deny all material allegations made in support of such facts and denies that Plaintiff is entitled to the relief requested in the Complaint.

6. The statements contained in paragraph 6 of the Complaint are not averments of fact but conclusions of law to which no response is required.

**PARTIES**

7. Defendant lacks sufficient knowledge to form a belief as to the truth of the material allegations contained in paragraph 7 of the Complaint and on that basis denies those material allegations.

8. Defendant admits that it is a limited liability company registered to do business in Massachusetts. Defendant denies the remaining material allegations contained in paragraph 8 of the Complaint. Any remaining statements contained in paragraph 8 of the Complaint are not averments of fact but conclusions of law to which no response is required.

9. Defendant admits the allegations contained in paragraph 9 of the Complaint.

**[ALLEGED] FACTS COMMON TO ALL COUNTS**

10. Defendant admits that Plaintiff is a female over 40. The remaining statements contained in paragraph 10 of the Complaint are not averments of fact but conclusions of law to which no response is required.

11. Defendant denies the material allegations contained in paragraph 11 of the Complaint.

12. Defendant denies the material allegations contained in paragraph 12 of the Complaint.

13. The statements contained in paragraph 13 of the Complaint are not averments of fact but conclusions of law to which no response is required.

14. Defendant denies the material allegations contained in paragraph 14 of the Complaint.

15. Defendant denies the material allegations contained in paragraph 15 of the Complaint.

16. Defendant denies the material allegations contained in paragraph 16 of the Complaint.

17. Defendant denies the material allegations contained in paragraph 17 of the Complaint.

18. Defendant denies the material allegations contained in paragraph 18 of the Complaint.
19. Defendant denies the material allegations contained in paragraph 19 of the Complaint.
20. Defendant admits the material allegations contained in paragraph 20 of the Complaint.
21. Defendant admits the material allegations contained in paragraph 21 of the Complaint.
22. Defendant admits that the Equal Employment Opportunity Commission issued Plaintiff a letter advising her of her rights under the law. Defendant denies the remaining material allegations contained in paragraph 22 of the Complaint.

**COUNT I-[PURPORTED] AGE DISCRIMINATION--ADEA**

23. Defendant restates and incorporates by reference its responses to the allegations made in paragraphs 1-22 of Plaintiff's Complaint as if fully made herein.
24. Defendant denies the material allegations contained in paragraph 24 of the Complaint.
25. Defendant denies the material allegations contained in paragraph 25 of the Complaint.
26. The statements contained in paragraph 26 of the Complaint are not averments of fact but conclusions of law to which no response is required.
27. The statements contained in paragraph 27 of the Complaint are not averments of fact but conclusions of law to which no response is required.
28. Defendant admits that the EEOC issued Plaintiff a letter advising her of her rights under the law. Defendant denies the remaining material allegations contained in paragraph 28 of the Complaint.

WHEREFORE, Defendant denies that Plaintiff is entitled to the relief sought in the paragraph on page 5 that is set forth after paragraph 28 of the Complaint, and that contains subparagraphs a. through h., denies that Plaintiff is entitled to the relief requested therein, and requests that the Court deny Plaintiff such relief.

**COUNT II – [PURPORTED] AGE DISCRIMINATION – M.G. L. CH. 151B**

29. Defendant restates and incorporates by reference its responses to the allegations made in paragraphs 1-28 of Plaintiff's Complaint as if fully made herein.
30. Defendant denies the material allegations contained in paragraph 30 of the Complaint.
31. Defendant denies the material allegations contained in paragraph 31 of the Complaint.
32. The statements contained in paragraph 32 of the Complaint are not averments of fact but conclusions of law to which no response is required.
33. Defendant admits the material allegations contained in paragraph 33 of the Complaint.
34. Defendant denies the material allegations contained in paragraph 34 of the Complaint.
35. The statements contained in paragraph 35 of the Complaint are not averments of fact but conclusions of law to which no response is required.

WHEREFORE, Defendant requests that the Court enter judgment against Plaintiff and denies that Plaintiff is entitled to the relief sought in the paragraph on page 6-7 that is set forth after paragraph 35 of the Complaint, and that contains subparagraphs a. through h., denies that Plaintiff is entitled to the relief requested therein, and requests that the Court deny Plaintiff such relief.

**SECOND DEFENSE**

The Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

**THIRD DEFENSE**

Plaintiff failed to mitigate her damages.

**FOURTH DEFENSE**

The Complaint is barred, in whole or in part, by the applicable statute of limitations.

**FIFTH DEFENSE**

Defendant acted at all times in good faith.

WHEREFORE, Defendant prays that the Complaint be dismissed, or that judgment be entered in its favor, together with its costs, and together with such other relief as the Court may deem just.

Dated: August 4, 2005

/s/ Robert H. Stier, Jr.  
Robert H. Stier, Jr. (BBO#646725)

Pierce Atwood LLP  
One Monument Square  
Portland, Maine 04101  
207-791-1155

*Counsel for Defendant  
Auto Europe*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 4, 2005, I electronically filed a copy of Defendant's Answer to Plaintiff's Complaint and Jury Claim with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Sol J. Cohen, Esquire  
BBO# 630776  
Cohen & Sales  
43 Thorndike Street  
Cambridge, MA 02141

/s/ Robert H. Stier, Jr.  
Robert H. Stier, Jr. (BBO#646725)